



UNITED STATES DEPARTMENT OF COMMERCE
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SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/106,436 08/13/93 STILLWAGON

W 195210150

EXAMINER

DINO, S

35M1/1004

ART UNIT

PAPER NUMBER

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3508

DATE MAILED:

10/04/94

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

This application has been examined Responsive to communication filed on _____ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), _____ days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

1. Notice of References Cited by Examiner, PTO-892.
2. Notice of Draftsman's Patent Drawing Review, PTO-948.
3. Notice of Art Cited by Applicant, PTO-1449.
4. Notice of Informal Patent Application, PTO-152.
5. Information on How to Effect Drawing Changes, PTO-1474..
6. _____

Part II. SUMMARY OF ACTION

1. Claims _____ are pending in the application. 1-88

Of the above, claims _____ are withdrawn from consideration.

2. Claims _____ have been cancelled. 63-69

3. Claims _____ are allowed.

4. Claims 1-20, 22, 26-39, 44, 46, 48, 54-62, 70-76, 78-88 are rejected.

5. Claims 21, 23-25, 40-43, 45, 47, 49-53, 77 are objected to.

6. Claims _____ are subject to restriction or election requirement.

7. This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.

8. Formal drawings are required in response to this Office action.

9. The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are acceptable; not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).

10. The proposed additional or substitute sheet(s) of drawings, filed on _____, has (have) been approved by the examiner; disapproved by the examiner (see explanation).

11. The proposed drawing correction, filed _____, has been approved; disapproved (see explanation).

12. Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has been received not been received been filed in parent application, serial no. _____; filed on _____.

13. Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

14. Other

EXAMINER'S ACTION

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Drawings

This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

Specification

The Abstract of the Disclosure is objected to because it exceeds 25 lines. Correction is required. See M.P.E.P. § 608.01(b).

Double Patenting

Claims 1-20, 26-35, 37, 39, 44, 54-62, 70-76, 78-88 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-15 of U.S. Patent No. 5,197,314. Although the conflicting claims are not identical, they are not patentably distinct from each other because they merely recite like structural elements using different terminology and/or phraseology.

Claims 1, 2, 5, 9 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 4,900,182. Although the conflicting claims are not identical, they are not patentably

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distinct from each other because they recite like structural elements using different terminology and/or phraseology.

Claims 10-17, 19, 20, 22, 26-35, 37, 39, 44, 54-62, 73, 74, 79-81, 83-88 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 4,900,182 in view of Baynes '930. Stillwagon '182 clearly teaches a latching apparatus comprising a post assembly 14 with gripping and releasing means having a smooth surface 17 and notched surface 18 with the latch receiving surface at a plurality of radii from the central axis of the post. Baynes teaches a post latch assembly comprising a housing 48 having a passageway with latch elements 76/82 biased by leaf springs 78 to a latching position toward the central axis of the post and passageway. The post 34 comprises a multi-surfaced latching portion having at least one notched surface 84/86 and smooth surface about the circumference thereof. The notched surface receives the latching elements. Furthermore, the release means 32 to disengage the post assembly is removably connected to the post assembly 36/38. It would have been obvious to one of ordinary skill in the art to combine the teachings of the post assembly of Baynes with the flat surfaced latch receiving portion of Stillwagon '182 since, the modification would afford equivalent function and result.

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Claims 18,36,38,82 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 4,900,182 in view of Baynes '930 and Roop '001. Roop further teaches a T-handle assembly for a door latching assembly. The latching apparatus is mounted on a door and comprises a key-actuated rotating T-handle 15 and post latch member 20 which engage a door element housing to lock the door and housing together. It would have been obvious to modify the post assembly of Stillwagon '182 in view of Baynes by providing a lockable T-handle as taught by Roop since, the advantages of providing a lock means on any latch assembly are well known in the art.

The obviousness-type double patenting rejection is a judicially established doctrine based upon public policy and is primarily intended to prevent prolongation of the patent term by prohibiting claims in a second patent not patentably distinct from claims in a first patent. *In re Vogel*, 164 USPQ 619 (CCPA 1970). A timely filed terminal disclaimer in compliance with 37 C.F.R. § 1.321(b) would overcome an actual or provisional rejection on this ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 C.F.R. § 1.78(d).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or

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on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,3,4,6-8,70-72,75,76,78 are rejected under 35 U.S.C. § 102(b) as being anticipated by Baynes '930. Baynes teaches the latching post assembly described above having spring biased latch elements which engage the notched post member within a housing frame.

Claims 46 and 48 are rejected under 35 U.S.C. § 102(b) as being anticipated by Roe et al. Roe et al clearly teach a post assembly comprising latch ball means 19 and a spring bias member 21 which exerts force on the latching member from the opposite direction.

Allowable Subject Matter

Claims 21,23-25,40-43,45,47,49-53 and 77 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The spring bias member, being a unitary member and exerting force on two latch elements, is not found nor suggested by the prior art of record.

Claims 63-69 are allowable over the prior art of record. The unitary spring bias member exerting force on two latch elements is not found in the prior art of record.

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Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Applicant's cited prior art has been considered.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Suzanne Dino whose telephone number is (703) 308-2168.


PETER M. CUOMO
SUPERVISORY PATENT EXAMINER
GROUP 3500


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October 1, 1994